

## REMARKS

The Office Action dated July 6, 2005 has been received and carefully considered. In this response, claims 1, 25, 47 and 52 have been amended, and new claims 57-60 have been added. Support for the amendments may be found in the specification and drawings as originally filed. Reconsideration of the outstanding objections and rejections in the present application is respectfully requested based on the following remarks.

### **Obviousness Rejection of Claims 1, 7, 25, 31 and 47**

At page 3 of the Office Action, claims 1, 7, 25, 31 and 47 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Har-Chen et al. (U.S. Patent No. 6,429,902). This rejection is hereby respectfully traversed.

Independent claims 1, 25 and 47 recite the features of when the synchronization state is in a second state, making a first playback adjustment to the audio data, wherein the first playback adjustment *includes performing a sample rate conversion by interpolation of one or more audio data samples of the audio data*. Additionally, each of claims 1, 25 and 47 recite the features of performing a second playback adjustment when in a third state of synchronization wherein "the second playback adjustment provides a coarser playback adjustment than the first playback adjustment." Neither of these elements are disclosed or suggested in the cited art.

The Office Action refers to Har-Chen at Col. 5, lines 30-36, which discloses elimination and/or duplication of audio samples to achieve synchronization, and asserts that "sample rate conversion is effectively achieved when an audio sample is duplicated or eliminated." *See Office Action*, p. 4. The Applicant respectfully disagrees with the Examiner's characterization of sample rate conversion as understood from the context present application. Har-Chen discloses "changing the number of data elements" (col. 3, line 49) by simply adding or dropping data elements. In contrast, sample rate conversion, as understood from the context of the present application and as understood by one of ordinary skill in the art, typically involves filtering (as recited in claims 57-60) and/or some form of interpolation (as recited in claims 1, 27, 47 and 52) that results in a smoothing of the resulting upsampled or downsampled output. By contrast, the second playback adjustment recited in claim 1 provides a coarser playback adjustment. As recited in claims 8 and 9, the coarser playback adjustment may include repeating or dropping

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PES packets. Thus, the solution proposed by Har-Chen is coarser playback adjustment than that of the first playback adjustment recited in claims 1, 25, and 47. Thus, sample rate conversion is a decidedly more complex operation than simply dropping or adding data elements and therefore is not "essentially achieved" simply by dropping or adding data elements as disclosed by Har-Chen. Accordingly, it is respectfully submitted that the Office Action fails to establish that Har-Chen discloses or suggests the features of sample rate conversion of audio data samples as recited in claims 1, 25 and 47.

Moreover, the Office Action confirms that Har-Chen does not disclose a second playback adjustment when in a third state of synchronization wherein "the second playback adjustment provides a coarser playback adjustment than the first playback adjustment" as recited by claims 1, 25, and 47. Nevertheless, the Office Action asserts

It would have been obvious to one of ordinary skill in the art at the time of the invention to have, when the synchronization state is in a third state making a second playback adjustment to the audio data, the second playback adjustment provide a coarser playback adjustment than the first playback adjustment in order to provide an accuracy level of synchronization commensurate with the sampling rate of the particular type of audio data being decoded.

*Office Action*, p. 4. However, the Office Action fails to point to any reference or disclosure within Har-Chen to support such an observation. This rejection constitutes nothing more than a hindsight reconstruction based on the Application itself. The cited reference does not teach, suggest or disclose a first and a second playback adjustment.

Moreover, the quote demonstrates that the Office Action has misunderstood Har-Chen relative to the first and second playback adjustments recited in independent claims 1, 25 and 47. Specifically, Har-Chen discloses duplicating or eliminating audio samples, which, for example, are features recited in claims 8 and 9 of the present application and which refer to the second playback adjustment recited in claim 1. By implication, the sample rate conversion of the first playback adjustment is necessarily different from the second playback adjustment, which is recited to be a "coarser playback adjustment". Thus, the first playback adjustment recited in claims 1, 25 and 47 is not suggested or disclosed by Har-Chen.

The clock sizes and counters cited by the Office Action in support of the claim rejection relate a coarser type of playback adjustment, such as that described above. The clocks and

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counters are used by to determine the duplication/elimination rate, which is the only adjustment mechanism disclosed by Har-Chen. *See* Col. 6, line 34 – col. 7, line 9 and Col. 5, lines 33-36. Specifically, Har-Chen discloses “The encoder/decoder clock ratio determines whether the audio playback system should correct by underflow or overflow so that accordingly, data elements are either duplicated or eliminated, respectively.” Col. 7, lines 19-24.

As previously discussed, the sample rate conversion of the first playback adjustment recited in claims 1, 25 and 47 is a less coarse playback adjustment option than the second playback adjustment. The Office Action therefore fails to establish that Har-Chen discloses or suggests each and every feature of claims 1, 25 and 47, as well as claims 7 and 31 at least by virtue of their dependency from claims 1 and 25, respectively. Moreover, these claims recite additional features neither disclosed nor suggested by the cited references.

In view of the forgoing, it is respectfully submitted that the obviousness rejection of claims 1, 7, 25, 31 and 47 is improper at this time and withdrawal of this rejection therefore is respectfully requested.

**Obviousness Rejections of Claims 2-4, 8-24, 26-28, 32-46 and 48-51**

At page 5 of the Office Action, claims 2-4, 26-28 and 48 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Har-Chen, of record, as applied to claims 1, 5-7, 25, 29-31 and 47 above, and further in view of Nuber et al. (U.S. Patent No. 5,703,877). Also at page 5 of the Office Action, claims 8-24, 32-46 and 49-51 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Har-Chen, of record, as applied to claims 1, 5-7, 25, 29-31 and 47 above, and further in view of Maturi et al. (U.S. Patent No. 5,960,006). These rejections are hereby respectfully traversed.

Claims 2-4 and 8-24 depend from claim 1, claims 32-46 depend from claim 25, and claims 48-51 depend from claim 47. As previously discussed, Har-Chen does not teach, suggest or disclose a first and a second playback adjustment. The Har-Chen reference discloses only one playback adjustment, which involves elimination/duplication of audio samples. None of the cited references alone, or in combination, teach suggest or disclose a first and a second playback adjustment. Moreover, none teach, suggest or disclose a sample rate conversion type adjustment and a second “coarser” playback adjustment. Accordingly, it is respectfully submitted that the Office Action fails to establish that Har-Chen discloses or suggests the features of sample rate

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conversion of audio data samples as recited in claims 1, 25, and 47 or that such features would have been obvious in view of Har-Chen. The Office Action does not assert that either of Nuber or Maturi disclose or suggest these features. Accordingly, it is respectfully submitted that the Office Action fails to establish that the proposed combinations of Har-Chen, Nuber and Maturi disclose or suggest each and every feature of claims 1, 25 and 47, and therefore fails to establish that the proposed combinations of Har-Chen, Nuber and Maturi disclose or suggest each and every feature of claims 2-4, 8-24, 26-28, 32-46, and 48-51 at least by virtue of their dependency from one of claims 1, 25 or 47.

Moreover, these claims recite additional features neither disclosed nor suggested by the cited references. For example, claims 10 and 34 recite the additional features of comparing a PTS value to an STC value. With respect to claim 10, the Office Action asserts that "Har-Chen discloses comparing a program clock reference (PCR)" to a local time counter (LTC)" and that "Maturi discloses comparing a PTS value to a system clock time in deciding whether to skip or repeat a data unit (see Abstract)," and therefore "it would have been obvious . . . to compare a PTS value to the LTC of Har-Chen instead of the PCR value." *Office Action*, p. 5. It is respectfully submitted that a PCR value represents a sampled value of the transmitting device's local system clock and accordingly is used to synchronize the receiving devices local system clock, whereas a PTS value represents a time at which the associated audio data should be provided for output. Thus, PCR values and PTS values are not equivalent or analogous, and the modification of the teachings of Har-Chen so as to compare a PTS value to the LTC rather than a PCR value to the LTC finds no support in the teachings of Har-Chen or Maturi.

Accordingly, it is respectfully submitted that the obviousness rejections of claims 2-4, 8-24, 26-28, 32-46, and 48-51 are improper at this time and withdrawal of these rejections therefore is respectfully requested.

**Obviousness Rejection of Claims 52-56**

At page 8 of the Office Action, claims 52-56 were rejected under 35 U.S.C. Section 103(a) as being unpatentable over Maturi, of record, in view of Har-Chen. This rejection is hereby respectfully traversed.

Claim 52, from which claims 53-56 depend, recites, in part, the features of when the PTS value is within a predefined value of a system time clock, performing a sample rate conversion

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of audio samples related to transport packets. As noted above, Har-Chen fails to disclose or suggest the features of a sample rate conversion of audio samples and the Office Action does not assert that Maturi discloses these features. Accordingly, it is respectfully submitted that the Office Action fails to establish that the proposed combination of Maturi and Har-Chen discloses or suggests each and every feature of claim 52, as well as each and every feature of claims 53-56 at least by virtue of their dependency from claim 52. Moreover, these claims recite additional features neither disclosed nor suggested by the cited references.

Accordingly, it is respectfully submitted that the obviousness rejection of claims 52-56 is improper at this time and withdrawal of this rejection therefore is respectfully requested.

**Conclusion**

The Applicant respectfully submits that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

The Commissioner is hereby authorized to charge any fees that may be required, or credit any overpayment, to Deposit Account Number 50-0441.

Respectfully submitted,

6 December 2005  
Date



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